

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANTHONY LAWSON,

Plaintiff

v.

PIZZA HUT, et al.,

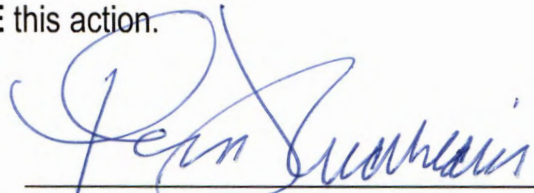
Defendants

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: 3:20-CV-2428  
: (JUDGE MARIANI)  
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ORDER

AND NOW, THIS 5<sup>th</sup> DAY OF MAY, 2021, upon review of Magistrate Judge Saporito's Report & Recommendation ("R&R") (Doc. 9) for clear error or manifest injustice, IT IS HEREBY ORDERED THAT:

1. The R&R (Doc. 9) is **ADOPTED** for the reasons set forth.<sup>1</sup>
2. Plaintiff's Complaint (Doc. 1) is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and 28 U.S.C. § 1915A(b)(1).
3. The Clerk of Court is directed to **CLOSE** this action.



Robert D. Mariani  
United States District Judge

<sup>1</sup> The R&R (Doc. 9), issued on January 6, 2021, relied in part on the Supreme Court's favorable termination rule set forth in *Heck v. Humphrey*, 512 U.S. 477 (1994) in determining that this action must be dismissed. At the time the R&R was issued, the Magistrate Judge properly noted that Lawson had been arraigned and was awaiting trial on the charges against him (*see id.* at 2-3). However, on April 9, 2021, Lawson pleaded guilty to Simple Assault and the other charges against him were nolle prossed. See *Commonwealth of Pennsylvania v. Lawson*, Docket No. CP-35-CR-0001065-2020 (Lackawanna Cty. (Pa.) (C.C.P.)). The applicability of *Heck* to a pre-trial detainee has been questioned by courts, *see e.g. Dique v. N.J. State Police*, 603 F.3d 181, 187 (3d Cir. 2010) (explaining that the Supreme Court in *Wallace v. Kato*, 549 U.S. 384 (2007) "clarified that the *Heck* bar is applicable only when, at the time the § 1983 suit would normally accrue, there is an *existing* criminal conviction.") (emphasis in original)). However, in light of Lawson's guilty plea in April, 2021, it is clear that the *Heck* bar now applies in this action as judgment in favor of Lawson in the present civil action would imply the invalidity of Lawson's state court criminal conviction.